

LEGISLATIVE # 

110505



# MEMORANDUM

Office of the City Attorney

Legistar No. 110505

Phone: 334-5011/Fax 334-2229  
Box 46

TO: Mayor and City Commission

DATE: January 5, 2012  
FIRST READING

FROM: City Attorney

SUBJECT: Ordinance No. 110505

## VOLUNTARY ANNEXATION – EASTSIDE PROPERTIES

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area pursuant to Chapter 90-496, Special Act, Laws of Florida, as amended by Chapter 91-382 and Chapter 93, 347, Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area located generally in an area comprised of Tax Parcel Numbers 10890-000-000, 10889-000-000, 10889-002-000, and 10889-003-000. Tax parcel 10890-000-000 is generally located south of East University Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcel 10890-002-000, and east of the Gainesville City Limits. Tax parcel 10889-000-000 is generally located south of East University Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcels 16127-002-002 and 16127-002-001, and east of tax parcels 10890-000-000 and 10890-002-000. Tax parcels 10889-002-000 and 10889-003-000 are generally located south of East University Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcels 16127-003-000 and 16125-001-001, and east of tax parcel 10889-000-000, as more particularly described in the ordinance; providing for inclusion of the area in Appendix I of the City Charter; providing for land use and zoning regulations; providing for persons engaged in any occupation, business, trade or profession within the area; providing directions to the City Manager and Clerk of the Commission; providing a severability clause; and providing an immediate effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

The adoption of an annexation ordinance is the final stage in the annexation process under the provisions of the Alachua County Boundary Adjustment Act. On November 19, 2009, at a regular City Commission meeting, the City Commission received and accepted the petitions for annexation, and determined that the petitions bore the signatures of the owners of the properties that is the subject of this annexation. On July 7, 2011 and July 21, 2011, the City Commission held advertised public hearings and adopted the Urban Services Report as mandated by the Boundary Adjustment Act.

Subsequent to the City Commission's acceptance of the petitions, property owners of the southern segment of the proposed area for annexation withdrew their petitions. Therefore, at this time, the City is only pursuing annexation of four parcels owned by Demetree Metro at Forest Creek LLC.

### ANNEXATION ORDINANCE

The annexation ordinance proposes to annex a contiguous, compact, unincorporated portion of the reserve area. The Boundary Adjustment Act requires the ordinance to be adopted as a nonemergency ordinance and to include one reasonably compact area.

In the Ordinance the City Commission makes certain findings of fact related to the area proposed for annexation. The area must meet certain standards as required by the Boundary Adjustment Act. In this regard, your attention is drawn to Section 1 of this Ordinance and the presentation by the City Manager.


If adopted on first reading, the second and final reading of this ordinance will be January 19, 2012. Pursuant to the Boundary Adjustment Act, notice of adoption of this ordinance was published for two consecutive weeks prior to first reading.

Prepared by:



Elizabeth A. Waratuke  
Litigation Attorney

Approved and  
Submitted by:



Marion J. Radson  
City Attorney

MJR:EAW:sw

**D R A F T**

12/7/2011

1  
2 **ORDINANCE NO. 110505**  
3

4 **An Ordinance of the City of Gainesville, Florida, annexing a portion of**  
5 **the City of Gainesville Reserve Area pursuant to Chapter 90-496,**  
6 **Special Act, Laws of Florida, as amended by Chapter 91-382 and**  
7 **Chapter 93, 347, Special Acts, Laws of Florida, known as the Alachua**  
8 **County Boundary Adjustment Act; making certain findings; including**  
9 **within the corporate limits of the City of Gainesville, Florida, that**  
10 **certain compact and contiguous area located generally in an area**  
11 **comprised of Tax Parcel Numbers 10890-000-000, 10889-000-000,**  
12 **10889-002-000, and 10889-003-000. Tax parcel 10890-000-000 is**  
13 **generally located south of East University Avenue, west of the vicinity**  
14 **of S.E. 43rd Street, north of tax parcel 10890-002-000, and east of the**  
15 **Gainesville City Limits. Tax parcel 10889-000-000 is generally located**  
16 **south of East University Avenue, west of the vicinity of S.E. 43rd Street,**  
17 **north of tax parcels 16127-002-002 and 16127-002-001, and east of tax**  
18 **parcels 10890-000-000 and 10890-002-000. Tax parcels 10889-002-000**  
19 **and 10889-003-000 are generally located south of East University**  
20 **Avenue, west of the vicinity of S.E. 43rd Street, north of tax parcels**  
21 **16127-003-000 and 16125-001-001, and east of tax parcel 10889-000-**  
22 **000, as more particularly described in the ordinance; providing for**  
23 **inclusion of the area in Appendix I of the City Charter; providing for**  
24 **land use and zoning regulations; providing for persons engaged in any**  
25 **occupation, business, trade or profession within the area; providing**  
26 **directions to the City Manager and Clerk of the Commission; providing**  
27 **a severability clause; and providing an immediate effective date.**  
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31 **WHEREAS, Chapter 90-496, Special Acts, Laws of Florida, as amended by Chapter 91-**  
32 **382 and Chapter 93-347, Special Acts, Laws of Florida, created the "Alachua County Boundary**  
33 **Adjustment Act" (hereinafter collectively referred to as "the Act") which sets forth procedures for**  
34 **the annexation of contiguous, compact, unincorporated territory within a municipality's reserve**  
35 **area; and**

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1           **WHEREAS**, on January 10, 2006, the Board of County Commissioners of Alachua County  
2 designated the Reserve Area for the City of Gainesville pursuant to the Act; and

3           **WHEREAS**, on August 9, 2011, the Board of County Commissioners of Alachua County  
4 updated the designated Reserve Area for the City of Gainesville pursuant to the Act; and

5           **WHEREAS**, on July 21, 2011, the City Commission of the City of Gainesville adopted  
6 Ordinance No. 100903, which adopted the Urban Services Report setting forth the plans to provide  
7 urban services to that portion of the Reserve Area proposed to be annexed in accordance with the  
8 procedures provided in the Act; and

9           **WHEREAS**, a copy of the Urban Services Report was filed with the Alachua County  
10 Board of County Commissioners; and

11           **WHEREAS**, the City of Gainesville desires to annex a certain portion of its Reserve Area  
12 which is compact and contiguous to the present corporate limits of the City; and

13           **WHEREAS**, pursuant to law, notice of adoption of this ordinance was published for two  
14 consecutive weeks prior to first reading in a newspaper of general circulation notifying the public of  
15 the first Public Hearing of this proposed Ordinance to be held in the City Commission meeting  
16 room, First Floor, City Hall, in the City of Gainesville; and

17           **WHEREAS**, Public Hearings were held pursuant to the published notice described above at  
18 which hearings the parties in interest and all others had an opportunity to be and were, in fact,  
19 heard.

20           **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
21 **CITY OF GAINESVILLE, FLORIDA:**

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1           **Section 1.** The City Commission finds that the Area described in Section 2 of this  
2 Ordinance (hereinafter referred to as the “Area”) is reasonably compact and contiguous to the  
3 present corporate limits of the City of Gainesville, and that no part of the Area is within the  
4 boundary of another municipality or county. The City Commission finds the Area to be within its  
5 Reserve Area and the annexation does not create an enclave.

6           **Section 2.** The following described Area is annexed and incorporated within the corporate  
7 limits of the City of Gainesville, Florida:

8                         See Legal Description attached hereto as Exhibit "A", and made a  
9                         part hereof as if set forth in full.

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11           **Section 3.** The corporate limits of the City of Gainesville, Florida, as set forth in Article I,  
12 Charter Laws of the City of Gainesville, are amended and revised to include the Area described in  
13 Section 2 within the corporate limits of the City of Gainesville, Florida.

14           **Section 4.** The City Manager is authorized and directed to make the necessary change in  
15 the Code of Ordinances of the City of Gainesville, Florida, to comply with this ordinance.

16           **Section 5.** In accordance with Section 171.062, Florida Statutes, the Alachua County land  
17 use plan and zoning or subdivision regulations shall remain in full force and effect in the Area  
18 described in Section 2 of this Ordinance until the City adopts a comprehensive plan amendment  
19 that includes the annexed area. The Gainesville Code Enforcement Board and code enforcement  
20 officers shall have jurisdiction to enforce these regulations during the interim period through the  
21 Gainesville Code Enforcement Board process as described in Division 8 of Article V of Chapter 2  
22 of the Code of Ordinances of the City of Gainesville and the Civil Citation Process, as described in

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1 Division 6 of Article V of Chapter 2 of said Code. During the interim period, the City may rezone  
2 properties in the annexed area to an Alachua County Zoning classification/category that conforms  
3 with the Alachua County Comprehensive Plan.

4 **Section 6.** (a) Except as provided in subsections (b) and (c) below, all persons who are  
5 lawfully engaged in any occupation, business, trade or profession within the area described in  
6 Section 2 of this Ordinance as of January 20, 2012, shall have the right to continue such occupation,  
7 business, trade or profession.

8 (b) Except as provided in subsection (c) below, all persons who are lawfully engaged in any  
9 construction trade, occupation or business within the Area described in Section 2 of this Ordinance  
10 as of January 20, 2012, and who possess a valid certificate of competency issued by Alachua  
11 County shall have the right to continue the construction trade, occupation, or business within the  
12 entire corporate limits of the City of Gainesville, including the Area described in Section 2 of this  
13 Ordinance, subject to the terms, conditions and limitations imposed on the certificate by Alachua  
14 County, and provided such persons register the certificate with the Building Inspections Department  
15 of the City of Gainesville and the Department of Business and Professional Regulation of the State  
16 of Florida, if applicable, on or before 4:00 p.m. on October 1, 2012.

17 (c) All persons lawfully engaged in any occupation, business, trade or profession within the  
18 Area described in Section 2 of this Ordinance as of January 20, 2012, shall obtain an occupational  
19 license from the City of Gainesville for the term commencing on October 1, 2012, which license  
20 shall be issued upon payment of the appropriate fee in accordance with the Gainesville Code of  
21 Ordinances in effect on October 1, 2012.

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1       **Section 7.** If any word, phrase, clause, paragraph, section or provision of this ordinance or  
2 the application hereof to any person or circumstance is held invalid or unconstitutional, such  
3 finding shall not affect the other provisions or applications of the ordinance which can be given  
4 effect without the valid or unconstitutional provisions or application, and to this end the provisions  
5 of this ordinance are declared severable.

6       **Section 8.** The Clerk of the Commission is directed to submit a certified copy of this  
7 Ordinance to: 1) the Executive Office of the Governor; 2) the Florida Department of State; 3) the  
8 Clerk of the Circuit Court of the Eighth Judicial Circuit in and for Alachua County, Florida; and 4)  
9 the Office of Economic and Demographic Research along with a statement specifying the  
10 population census effect and the affected land area.

11       **Section 11.** This Ordinance shall become effective immediately upon adoption.

12       **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2011.

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\_\_\_\_\_  
CRAIG LOWE  
MAYOR

ATTEST:

Approved as to form and legality

22 \_\_\_\_\_  
Kurt Lannon,  
23 Clerk of the Commission

\_\_\_\_\_  
Marion J. Radson,  
City Attorney

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25       This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2011.  
26       This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2012.



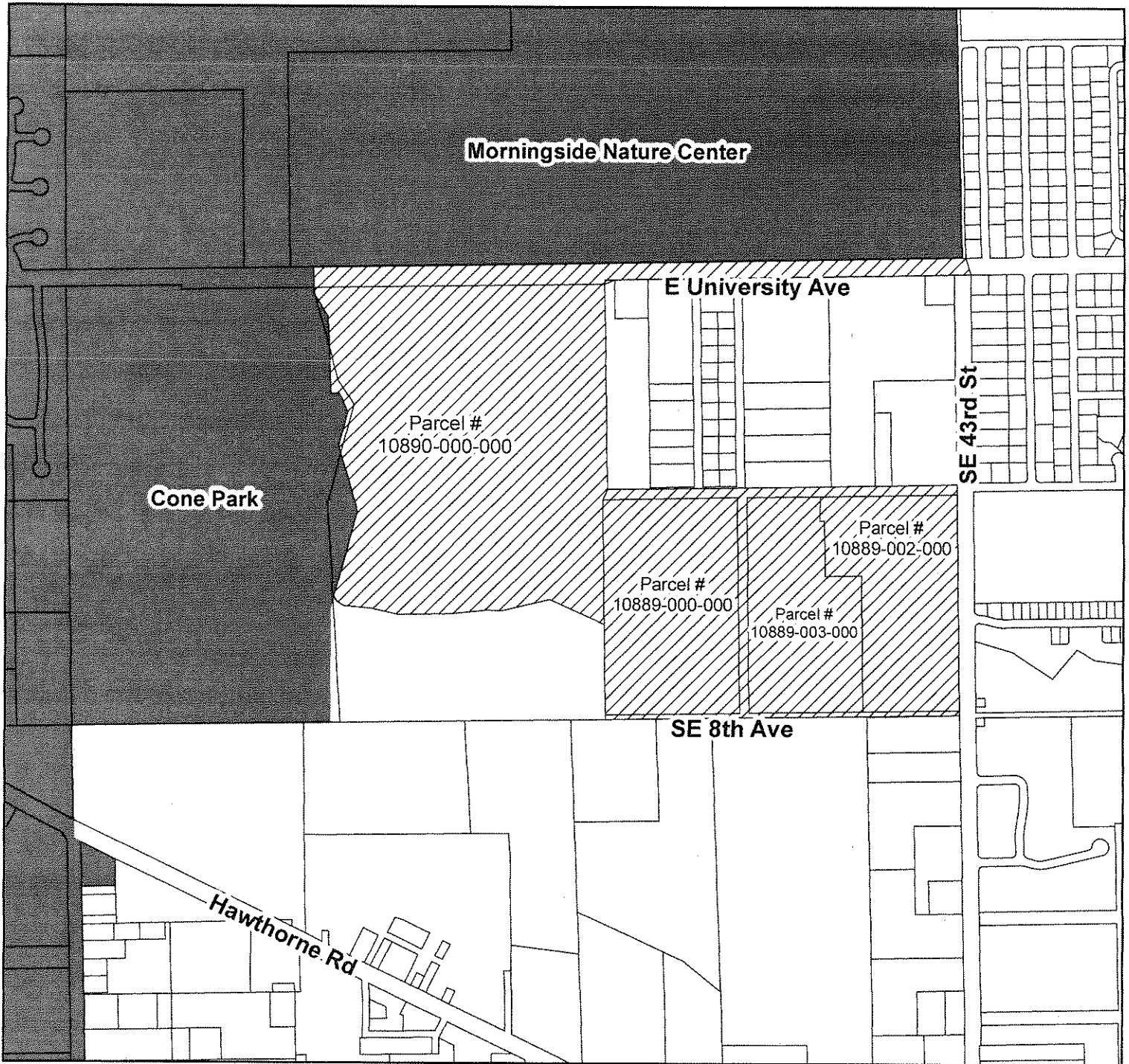
**EXHIBIT "A"**

DESCRIPTION OF LANDS PROPOSED TO BE VOLUNTARILY ANNEXED IN THE VICINITY OF SE 43<sup>RD</sup> STREET & EAST UNIVERSITY AVENUE SOUTH TO HAWTHORNE ROAD AND WEST TO EXISTING CITY LIMIT LINE AS PER ORDINANCE 3617. THE TAX PARCEL NUMBERS REFERENCED IN PARENTHESES WERE CURRENT AS OF JUNE 16, 2011.

A PARCEL OF LAND LYING IN SECTIONS 1, 2, 11 AND 12, TOWNSHIP 10 SOUTH, RANGE 20 EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE NORTHEAST CORNER OF SECTION 2, TOWNSHIP 10 SOUTH RANGE 20 EAST ALSO BEING A POINT ON THE EXISTING CITY OF GAINESVILLE LIMIT LINE; THENCE SOUTH 01°22'14" EAST ALONG SAID EAST LINE OF SECTION AND EXISTING CITY OF GAINESVILLE LIMIT LINE, A DISTANCE OF 2591.57 FEET TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 26 ALSO KNOWN AS EAST UNIVERSITY AVENUE AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF APPROXIMATELY 100 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST UNIVERSITY AVENUE AND STATE ROAD 26, ALSO BEING A POINT ON THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 15 OF LAKE FOREST LAKE FARMS, A SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK "A" PAGE 152 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA (HEREAFTER ABBREVIATED P.R.A.C.F.); THENCE WEST ALONG SAID EXTENSION AND SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 26 AND ALONG THE NORTH LINES OF LOTS 15, 14, 13, 12, AND 11 OF SAID LAKE FOREST LAKE FARMS, A DISTANCE OF APPROXIMATELY 1,310 FEET TO THE NORTHWEST CORNER OF SAID LOT 11, ALSO BEING THE SOUTHEAST CORNER OF THE INTERSECTION OF SAID STATE ROAD 26 AND SOUTHEAST 39<sup>TH</sup> STREET; THENCE CONTINUE WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 26 AND THE NORTH LINE OF PENNINGTON

SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK "E", PAGE 26 OF THE P.R.A.C.F., A DISTANCE OF APPROXIMATELY 300 FEET TO THE NORTHEAST CORNER OF LOT 9 OF SAID LAKE FOREST LAKE FARMS, ALSO BEING THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTHEAST 38<sup>TH</sup> STREET AND SAID STATE ROAD 26; THENCE CONTINUE ALONG THE NORTH LINE OF SAID LOT 9 AND LOT 8 OF SAID LAKE FOREST LAKE FARMS, A DISTANCE OF APPROXIMATELY 520 FEET TO THE NORTHWEST CORNER OF SAID LOT 8, ALSO BEING THE NORTHEAST CORNER OF LOT 7 OF SAID LAKE FOREST LAKE FARMS; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 7 AND THE EAST LINE OF LOT 7A, A DISTANCE OF APPROXIMATELY 1250.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7A, ALSO BEING A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHEAST 4TH AVENUE; THENCE EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF APPROXIMATELY 2180 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 43RD STREET ALSO KNOWN AS COUNTY ROAD 225; THENCE SOUTH ALONG SAID EAST RIGHT-OF-WAY LINE OF SOUTHEAST 43RD STREET, A DISTANCE OF APPROXIMATELY 1372.56 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SOUTHEAST 8TH AVENUE, ALSO BEING THE SOUTH LINE OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 20 EAST; THENCE WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE AND SAID SECTION LINE, A DISTANCE OF APPROXIMATELY 2183.35 FEET TO THE WESTERLY TERMINUS OF SAID SOUTHEAST 8<sup>TH</sup> AVENUE, ALSO BEING THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND (T.P. 10890-2) AS DESCRIBED IN O.R.B. 2412, P. 349 OF THE P.R.A.C.F.; THENCE NORTH 00° 40' 37" WEST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 578.31 FEET TO THE NORTHEAST CORNER OF SAID PARCEL ALSO BEING A POINT ON THE CENTERLINE OF A 170 FOOT WIDE ALACHUA COUNTY DRAINAGE EASEMENT AS RECORDED IN O.R.B. 687, P. 65 (ALSO O.R.B. 677, P. 139) OF THE P.R.A.C.F.; THENCE WESTERLY ALONG SAID CENTERLINE THE FOLLOWING 9 COURSES: 1) NORTH 62° 42' 23" WEST, A DISTANCE OF 19.22 FEET; 2) NORTH 66° 26' 53" WEST, A DISTANCE OF 285.00 FEET; 3) SOUTH 76° 42' 52" WEST, A DISTANCE OF 290.00 FEET; 4) NORTH 89° 06' 08" WEST, A DISTANCE OF 93.00 FEET; 5) SOUTH 84° 00' 52" EAST, A DISTANCE OF 220.00


FEET; 6) SOUTH  $89^{\circ} 25' 37''$  WEST, A DISTANCE OF 329.00 FEET; 7) NORTH  $77^{\circ} 50' 23''$  WEST, A DISTANCE OF 166.00 FEET; 8) NORTH  $84^{\circ} 37' 08''$  WEST, A DISTANCE OF 166.48 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 100 FEET; 9) THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF  $81^{\circ} 04' 30''$ , AN ARC DISTANCE OF 141.50 FEET, BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH  $44^{\circ} 04' 53''$  WEST, 129.99 FEET TO THE END OF SAID CURVE ALSO BEING THE NORTHWEST CORNER OF SAID PARCEL AND ALSO BEING A POINT ON THE EXISTING CITY OF GAINESVILLE LIMIT LINE AS PER ORDINANCE NUMBER 3617; THENCE RUN NORTHERLY ALONG SAID CITY LIMIT LINE AND THE CENTERLINE OF SAID 170 FOOT WIDE DRAINAGE EASEMENT THE FOLLOWING 6 COURSES: 1) NORTH  $03^{\circ} 32' 38''$  WEST, A DISTANCE OF 535.41 FEET; 2) NORTH  $03^{\circ} 32' 38''$  WEST, A DISTANCE OF 625.00 FEET; 3) NORTH  $15^{\circ} 50' 52''$  EAST, A DISTANCE OF 602.00 FEET; 4) NORTH  $33^{\circ} 25' 53''$  WEST, A DISTANCE OF 168.00 FEET; 5) NORTH  $15^{\circ} 48' 23''$  WEST, A DISTANCE OF 535.68 FEET; 6) NORTH  $00^{\circ} 59' 13''$  WEST, A DISTANCE OF 109.32 FEET TO THE BEGINNING OF SAID DRAINAGE EASEMENT AND THE CENTERLINE OF STATE ROAD 26; THENCE CONTINUE NORTHERLY ALONG SAID CITY LIMIT LINE A DISTANCE OF APPROXIMATELY 50.01 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD 26; THENCE RUN EASTERLY ALONG SAID CITY LIMIT LINE AND SAID NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 26 A DISTANCE OF APPROXIMATELY 3853.60 FEET TO THE EAST LINE OF SECTION 2 AND THE POINT OF BEGINNING, SAID PARCEL CONTAINING 150.3 ACRES, MORE OR LESS.



## Voluntary East Side Properties Annexation

### City of Gainesville, FL

 Proposed Annexation Area (approx. 146.2 acres)

 Gainesville City Limits

0 460 920 1,840 Feet



Prepared by Planning and Development Services/GIS August 11, 2011  
 File: T:\Projects\Planning\Urban\_Service\_Reports\Eastside-Properties\_05-12-11

